

AMENDED IN SENATE JUNE 7, 2010
AMENDED IN ASSEMBLY MARCH 25, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1856

Introduced by Assembly Member Fong

February 12, 2010

An act to amend Section 21050 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1856, as amended, Fong. Public employees' retirement.

The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Under the Public Employees' Retirement Law, members may elect to receive service credit for various types of public service, and this election is effective only if an appropriate payment, or authorization for payment, of the contributions and interest required for the credit is made. That law calculates retirement benefits, in part, based on years of creditable service and authorizes a member to receive additional service credits, as specified.

This bill would authorize a member authorized to pay for credit for service in after-tax installments to elect in writing, including by verified electronic transaction, at any time prior to retirement, to suspend after-tax installment payments for a period not to exceed 12 months or to prospectively cancel payment of the remaining unpaid balance for those installment payments, as specified. The bill would require that installment payments automatically resume at the end of the suspension period, or earlier if requested by the member. The bill would prohibit

an additional suspension of those installment payments for the same service for 3 years following the resumption of installment payments. The bill would require that the balance due at the end of a suspension period be recalculated to include interest accrued during the suspension.

The bill would additionally authorize the board to cancel payment of the remaining unpaid balance for those installment payments if the member fails to make after-tax installment payments when due for a period of 12 months. The bill would authorize a member to elect to purchase that portion of the service credit not credited to the member's account as a result of cancellation, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21050 of the Government Code is
2 amended to read:

3 21050. (a) An election by a member to receive credit for
4 service under this part, in addition to his or her current and prior
5 service credit, shall be effective only if accompanied by a
6 lump-sum payment or an authorization for payments, other than
7 a lump-sum payment, in accordance with regulations of the board.

8 (b) If a member electing to receive credit for service under this
9 part is authorized to pay for that service in installment payments
10 beginning on or after January 1, 2004, the amount of the installment
11 payments shall include an actuarial adjustment, as determined by
12 the chief actuary, as necessary to take into account the provisions
13 of Section 21037. The amount of the actuarial adjustment may not
14 exceed one-half of 1 percent of the total installment payment.

15 (c) (1) A member authorized to pay for credit for service in
16 after-tax installments may elect in writing, including by verified
17 electronic transaction, at any time prior to retirement, to suspend
18 after-tax installment payments for a period not to exceed 12
19 months. Installment payments shall automatically resume at the
20 end of the suspension period, or earlier if requested by the member.
21 A member may not elect an additional suspension of those
22 installment payments for the same service for three years following
23 the resumption of installment payments.

24 (2) The balance due at the end of a suspension period shall be
25 recalculated to include interest accrued during the suspension.

1 (3) (A) A member who retires during the suspension period
2 may, prior to retirement, do either of the following:

3 ~~(A)~~

4 (i) Make a lump-sum payment for the recalculated balance due.

5 ~~(B)~~

6 (ii) Cancel installment payments in the manner specified in
7 subdivision (d).

8 ~~(4)~~

9 (B) Failure by a member to make the lump-sum payment or the
10 election to cancel installment payments, will result in the
11 resumption of installment payments as of his or her date of
12 retirement.

13 (d) A member authorized to pay for credit for service in after-tax
14 installments may elect in writing, including *by* verified electronic
15 transaction, at any time prior to retirement, to prospectively cancel
16 payment of the remaining unpaid balance for those installment
17 payments.

18 (1) An election shall be effective upon the earlier of the
19 member's retirement date, or the first day of the month following
20 approval by the system of the election.

21 (2) Service credited to the member's account will be reduced
22 in proportion to the balance of the total amount remaining unpaid
23 on the effective date of the cancellation. If the member elects to
24 cancel during or at the end of a suspension period, the balance
25 shall include any interest accrued and unpaid during the suspension
26 period.

27 (3) Installment payments ~~may~~ *shall* not be ~~cancelled~~ *canceled*
28 for any of the following:

29 (A) Contribution or service credit adjustments required by law
30 or agreement.

31 (B) A tier election pursuant to Article 2 (commencing with
32 Section 21070) of Chapter 12 of Part 3 of Division 5 of Title 2.

33 (C) The purchase of service credit subject to a community
34 property division by way of court judgment, domestic relations,
35 or other court order or settlement agreement.

36 (e) If a member who has not elected to suspend installment
37 payments pursuant to subdivision (c) fails to make after-tax
38 installment payments when due for a period of 12 months, the
39 board may cancel the remaining unpaid balance in the same manner

1 and with the same effect as if the member had elected to cancel
2 his or her installment payments pursuant to subdivision (d).

3 (f) ~~At any time prior~~ Prior to retirement, a member may elect
4 to purchase that portion of the service credit not credited to his or
5 her account as a result of a cancellation executed pursuant to
6 subdivision (d) or (e). ~~A member who elects to purchase that~~
7 ~~service credit shall make the contributions as specified in Section~~
8 ~~21052.~~ A member shall not make an election for three years
9 following the effective date of the cancellation unless the member
10 retires before the conclusion of that period.

11 (1) A member who elects to purchase that service credit shall
12 contribute an amount equal to the sum of the following:

13 (A) The remaining unpaid balance of the canceled installment
14 payments.

15 (B) Interest from the effective date of the cancellation until the
16 date of completion of payment.

17 (C) If the member elects to contribute in installment payments,
18 interest on the unpaid balance of the amount payable, beginning
19 on the date of the election to receive credit through completion of
20 payments.

21 (2) Notwithstanding Section 575.1 of Title 2 of the California
22 Code of Regulations, the interest rate applicable to the amount
23 due for this election shall be the interest rate applicable to the
24 canceled installment payments.